

EXECUTIVE NOTE

THE SEEDS (FEES) (SCOTLAND) REGULATIONS 2011

S.S.I. 2011/413

Introduction

1. The above instrument was made in exercise of the powers conferred by sections 16 (1), (1A), (3) (i) and (5) (a) and 36 of the Plant Varieties and Seeds Act 1964⁽¹⁾ (“the Act”) and all other enabling powers. The instrument is subject to negative resolution procedure.

Consultation

2. Section 16(1) of the Act requires the Scottish Ministers to consult with representatives of such interests as appear to them to be appropriate.

3. As well as consulting with key stakeholders (NFU Scotland, AIC Scotland, and Scottish Seed Trade Association etc), and over 100 interested parties, a copy of the consultation was placed on the Scottish Government website. Eleven responses were received and a summary of those have also been placed on the website.

Policy objectives

5. The purpose of this instrument is to update the provisions for the charging of seed certification (in relation to seed marketing) and associated licensed activities and it revokes and replaces the Seeds (Fees) (Scotland) Regulations 2007 (“the 2007 Regulations”).

6. The Regulations prescribe fees in respect of matters arising under the various Seed Marketing Regulations, namely: the Cereal Seed (Scotland) Regulations 2005 (S.S.I. 2005/328), the Fodder Plant Seed (Scotland) Regulations 2005 (S.S.I. 2005/329), The Oil and Fibre Plant Seed (Scotland) Regulations 2004 (S.S.I. 2004/317) the Beet Seed (Scotland) (N^o 2) Regulations 2010 (S.S.I. 2010/148), the Vegetable Seeds Regulations 1993 2011 (S.I. 1993/2008) and the Seeds (Registration, Licensing and Enforcement) (Scotland) Regulations 2006 (S.S.I.2006/313), (all as amended).

7. Seed certification is a European Union requirement to ensure that farmers and growers receive seeds of a known minimum quality. This is achieved in Scotland through marketing regulations which ensure that seeds of the main agricultural and vegetable species can be marketed only after being examined and certified as meeting specified minimum EU standards and as being derived from crops which have also met specific EU standards. The Scottish Government carry out technical and administrative work associated with seed certification.

⁽¹⁾ 1964 c.14. Section 16 was amended by the European Communities Act 1972 (c.68), section 4(1) and Schedule 4, paragraph 5(1) and (2), by the Agriculture Act 1986 (c.49), section 2 (“the 1986 Act”) and by S.I. 1977/1112. See section 38(1) of the 1986 Act, for the definition of “the Minister”. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

Main changes introduced by the Seed Fees (Scotland) Regulations 2011

8. A fundamental principle of the Scottish Government accounting procedure and practice is that “each statutory service should have its own financial objective, have separate costing and be charged for” and “the financial objective of a statutory should normally be full cost recovery”.

9. This in-depth review highlighted that a number of services provided by Scottish Government which did not meet that objective and a number of new fees were required to be introduced as follows–

Matter		Description
Regulation		
Fee for late crop entry	Regulation 6(2)	Each of the individual seed marketing regulations specifies a date that all crops are required to be entered for certification. Where applicants apply later than the given date, this requires a number of additional administration processes to be carried out for which SG must recover the costs.
Fee for the late change of inspection type	Regulation 6(3)	This involves extra administration costs and the re-arrangement of SG inspectors to carry out official crop inspections often at short notice. Applicants may have indicated that they intended carrying out a licensed inspection, however due to circumstances this may not now be possible and the applicant now requires SG to undertake the inspection.
Schedule 1		
Crop inspection fee for Swede rape hybrids	B(ii)	Due to the nature of Swede rape 3 crop inspections are required to take place through out the growing period. Unlike other crops, Swede rape is the only one that requires 3 inspections and therefore incurs a high cost for inspection.
Lodging	B (iii)(c)	For a crop inspection to take place the crop is required to be standing up-right. Weather conditions can often cause a crop to fall over. If this is the case when an inspection is due to take place, the relevant crop inspector will return if requested by the applicant, to re-inspect the crops should it recover enough (stand up) to be inspected.
Crop inspection fee for the official inspection or re-inspection of crops where there has been a post control failure	B(v)	All crops which have been entered for certification and are to be inspected by a licensed crop inspector, require a post control plot to be sown by SASA on the SG’s farm at Roddinglaw. Should any of these control plots show evidence of contamination, problems with germination or disease etc, then an SG inspector is required to carry out crop inspections for all the crops sown from that seed lot.
Higher Voluntary Standard (HVS) verification fee	H	Seed which has been imported from a third country is required to meet the EU minimum standards. In the UK there is, however, a demand for seed to meet a higher standard. This is a voluntary standard, but provided the seed is capable of meeting this standard it can be marketed at a higher price By requesting SASA to check the third country certificate and the standards against the UK’s the seed can be re-graded to the Higher Voluntary Standard.
Schedule 2		
Re-examination fee for seed	D(iii)	SASA are responsible for ensuring that licensed seed samplers

samplers licence (with sampling function enabled)		are capable of maintaining their knowledge and expertise to allow them to take seed samples which are submitted for certification. This is done ever three years when a seed sampler is asked to attend a re-fresher course and sit an exam. Prior to this review no charges were made to cover SG's costs.
Re-examination fee for seed samplers licence (with sampling function not enabled)	D (iv)	As above, but no actual sampling is under taken for this type of licence. The candidate does not take samples, but needs to know about sealing and re-labelling.

In order to ensure full cost recovery, a number of other (existing) fees have been increased.

Financial effects

10. The effect of the proposed changes to fees on small businesses will be proportional to their level of certification activity. As statutory fees represent only about 3% of the cost of the final stages of cleaning and bagging seed, the proposed increase to small seed merchants, will be representative of current cost and inflation increases. If the costs are passed on, an arable farmer would face an increase in the price per tonne for seed he purchases of between 0.14% - 1% which means that they would be paying between an additional 9 – 65 pence per hectare for the seed sown.

11. This is a complex issue and has been comprehensively addressed in the Business Regulatory Impact Assessment.

Timing

12. Regulations come into force on 1st January 2012.

Scottish Government: Agriculture and Rural Directorate
15 November 2011